

**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF TEXAS  
SHERMAN DIVISION**

**Alejandro Acosta,**

**Plaintiff,**

**V.**

**Healthcare Revenue Recovery Group, LLC**

**d/b/a ARS Account Resolution Services**

**and;**

**Experian Information Solutions, Inc,**

## Defendants.

**Civil Action No. 4:19-cv-00203-ALM-KPJ**

**DEFENDANT HEALTHCARE REVENUE RECOVERY GROUP, LLC D/B/A  
ARS ACCOUNT RESOLUTION SERVICES' ANSWER TO PLAINTIFF'S  
THIRD AMENDED COMPLAINT**

NOW COMES Defendant Healthcare Revenue Recovery Group, LLC d/b/a ARS Account Resolution Services (“ARS”), by and through its undersigned counsel, and for its answer to Plaintiff Alejandro Acosta’s (“Plaintiff”) Third Amended Complaint (the “Complaint”), states as follows:

## PRELIMINARY STATEMENT

1. In response to paragraph 1 of the Complaint, ARS admits that the Complaint purports to state claims under the federal Fair Credit Reporting Act (“FCRA”), 15 U.S.C. § 1681 et seq., and the Fair Debt Collection Practices Act (“FDCPA”). ARS denies that it violated the FCRA or the FDCPA, and further generally denies each and every remaining allegation contained in paragraph 1 of the Complaint as it relates to ARS. In response to the allegations in paragraph 1 of the Complaint that relate to the other defendants, ARS is without knowledge or

information sufficient to form a belief as to the truth of those allegations and, on that basis, denies each and every such allegation of paragraph 1 of the Complaint.

### **JURISDICTION AND VENUE**

2. In response to paragraph 2 of the Complaint, ARS admits that Plaintiff has alleged jurisdiction based on the FCRA and FDCPA. ARS states that this is a legal conclusion that is not subject to denial or admission.

3. In response to paragraph 3 of the Complaint, ARS admits that Plaintiff has alleged venue in this district is proper pursuant to 28 U.S.C. § 1391(b). ARS states that it is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations contained in paragraph 3 and on that basis, ARS denies each and every remaining allegation.

### **PARTIES**

4. In response to paragraph 4 of the Complaint, ARS admits Plaintiff is a natural person and a “consumer” as defined in 15 U.S.C. § 1681a(c). ARS is without knowledge or information as to the truth of the remaining allegations contained in paragraph 4 of the Complaint and thus denies each and every remaining allegation.

5. In response to paragraph 5 of the Complaint, ARS admits that Experian is a consumer reporting agency. ARS is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations contained in paragraph 5 of the Complaint and thus denies each and every allegation in the paragraph.

6. In response to paragraph 6 of the Complaint, ARS admits that in certain circumstances and instances it acts as a “debt collector” as defined by FDCPA. ARS denies the remainder of the allegations of the paragraph.

**FACTUAL ALLEGATIONS**

7. In response to paragraph 7 of the Complaint, ARS restates and incorporates its responses to paragraphs 1 through 6 above as if fully stated herein.

8. In response to paragraph 8 of the Complaint, ARS is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 8 and on that basis, generally denies the allegations in the paragraph.

9. In response to paragraph 9 of the Complaint, ARS admits that Experian is a consumer reporting agency. ARS is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 9 and on that basis, generally denies the allegations in the paragraph.

10. In response to paragraph 10 of the Complaint, ARS denies each and every allegation.

11. In response to paragraph 11 of the Complaint, ARS denies each and every allegation as it relates to ARS. In response to the remaining allegations, ARS is without knowledge or information sufficient to form a belief as to the truth of those allegations and, on that basis, generally denies the remaining allegations in that paragraph.

12. In response to paragraph 12 of the Complaint, ARS denies each and every allegation as it relates to ARS.

13. In response to paragraph 13 of the Complaint, ARS denies each and every allegation as it relates to ARS. In response to the remaining allegations, ARS is without knowledge or information sufficient to form a belief as to the truth of those allegations and, on that basis, generally denies the remaining allegations in that paragraph.

14. In response to paragraph 14 of the Complaint, ARS denies each and every allegation as it relates to ARS. In response to the remaining allegations, ARS is without knowledge or information sufficient to form a belief as to the truth of those allegations and on that basis, generally denies the remaining allegations in that paragraph.

15. In response to paragraph 15 of the Complaint, ARS denies each and every allegation as it relates to ARS. In response to the remaining allegations, ARS is without knowledge or information sufficient to form a belief as to the truth of those allegations and, on that basis, generally denies the remaining allegations in that paragraph.

16. In response to paragraph 16 of the Complaint, ARS is without knowledge or information sufficient to form a belief as to the truth of those allegations and, on that basis, generally denies the allegations in the paragraph.

17. In response to paragraph 17 of the Complaint, ARS is without knowledge or information sufficient to form a belief as to the truth of those allegations and, on that basis, generally denies the allegations in the paragraph.

18. In response to paragraph 18 of the Complaint, ARS denies each and every allegation.

19. In response to paragraph 19 of the Complaint, ARS denies each and every allegation.

20. In response to paragraph 20 of the Complaint, ARS denies each and every allegation as it relates to ARS. In response to the remaining allegations, ARS is without knowledge or information sufficient to form a belief as to the truth of those allegations and, on that basis, generally denies the remaining allegations in that paragraph.

21. In response to paragraph 21 of the Complaint, ARS denies each and every allegation as it relates to ARS. In response to the remaining allegations, ARS is without knowledge or information sufficient to form a belief as to the truth of those allegations and, on that basis, generally denies the remaining allegations in that paragraph.

22. In response to paragraph 22 of the Complaint, ARS denies each and every allegation.

23. In response to paragraph 23 of the Complaint, ARS is without knowledge or information sufficient to form a belief as to the truth of those allegations and, on that basis, generally denies the allegations in the paragraph.

24. In response to paragraph 24 of the Complaint, ARS is without knowledge or information sufficient to form a belief as to the truth of those allegations and, on that basis, generally denies the allegations in that paragraph.

25. In response to paragraph 25 of the Complaint, ARS denies each and every allegation.

26. In response to paragraph 26 of the Complaint, ARS denies each and every allegation as it relates to ARS. In response to the remaining allegations, ARS is without knowledge or information sufficient to form a belief as to the truth of those allegations and, on that basis, generally denies the remaining allegations in that paragraph.

27. In response to paragraph 27 of the Complaint, ARS denies each and every allegation as it relates to ARS and states that the allegations contained therein are legal conclusions which are not subject to denial or admission. ARS generally denies any allegation that it violated the FCRA or any other law. In response to the remaining allegations, ARS is

without knowledge or information sufficient to form a belief as to the truth of those allegations and, on that basis, generally denies the remaining allegations in that paragraph.

28. In response to paragraph 28 of the Complaint, ARS states that the allegations contained therein are legal conclusions which are not subject to denial or admission. ARS generally denies any allegation that it violated the FCRA or any other law. In response to the remaining allegations, ARS is without knowledge or information sufficient to form a belief as to the truth of those allegations and, on that basis, generally denies the remaining allegations in that paragraph.

29. In response to paragraph 29 of the Complaint, ARS states that allegations contained therein are legal conclusions which are not subject to denial or admission. ARS denies each and every allegation as it relates to ARS and generally denies any allegation that it violated the FCRA or any other law. In response to the remaining allegations, ARS is without knowledge or information sufficient to form a belief as to the truth of those allegations and, on that basis, generally denies the remaining allegations in that paragraph.

30. In response to paragraph 30 of the Complaint, ARS states that allegations contained therein are legal conclusions which are not subject to denial or admission. ARS generally denies any allegation that it violated the FCRA or any other law. In response to the remaining allegations, ARS is without knowledge or information sufficient to form a belief as to the truth of those allegations and, on that basis, generally denies the remaining allegations in that paragraph.

31. In response to paragraph 31 of the Complaint, ARS denies each and every allegation as it relates to ARS. In response to the remaining allegations, ARS is without

knowledge or information sufficient to form a belief as to the truth of those allegations and, on that basis, generally denies the remaining allegations in that paragraph.

32. In response to paragraph 32 of the Complaint, ARS denies each and every allegation as it relates to ARS. In response to the remaining allegations, ARS is without knowledge or information sufficient to form a belief as to the truth of those allegations and, on that basis, generally denies the remaining allegations in that paragraph.

33. In response to paragraph 33 of the Complaint, ARS denies each and every allegation as it relates to ARS. In response to the remaining allegations, ARS is without knowledge or information sufficient to form a belief as to the truth of those allegations and, on that basis, generally denies the remaining allegations in that paragraph.

34. In response to paragraph 34 of the Complaint, ARS denies each and every allegation as it relates to ARS. In response to the remaining allegations, ARS is without knowledge or information sufficient to form a belief as to the truth of those allegations and, on that basis, generally denies the remaining allegations in that paragraph.

35. In response to paragraph 35 of the Complaint, ARS states that the allegations contained therein are legal conclusions which are not subject to denial or admission. ARS generally denies any allegation that it violated the FCRA or any other law. In response to the remaining allegations, ARS is without knowledge or information sufficient to form a belief as to the truth of those allegations and, on that basis, generally denies the remaining allegations in that paragraph.

36. In response to paragraph 36 of the Complaint, ARS denies each and every allegation therein as it relates to ARS. In response to the remaining allegations, ARS is without

knowledge or information sufficient to form a belief as to the truth of those allegations and, on that basis, generally denies the remaining allegations in that paragraph.

### **CAUSES OF ACTION**

37. In response to paragraph 37 of the Complaint, ARS restates and incorporates its responses to the foregoing paragraphs as if fully stated herein.

38. In response to paragraph 38 of the Complaint, ARS generally denies each and every allegation therein that relates to ARS. ARS denies any allegation that it violated the FCRA or any other law. In response to the remaining allegations, ARS is without knowledge or information sufficient to form a belief as to the truth of those allegations and, on that basis, generally denies the remaining allegations in that paragraph.

### **Count I: Fair Credit Reporting Act**

39. In response to paragraph 39 of the Complaint, ARS restates and incorporates its responses to the foregoing paragraphs as if fully stated herein.

40. In response to paragraph 40 of the Complaint, ARS states that allegations contained therein are legal conclusions which are not subject to denial or admission. ARS denies each and every allegation as it relates to ARS and generally denies any allegation that it violated the FCRA or any other law. In response to the remaining allegations, ARS is without knowledge or information sufficient to form a belief as to the truth of those allegations and, on that basis, generally denies the remaining allegations in that paragraph.

### **Experian's alleged FCRA violations**

41. In response to paragraph 41 of the Complaint, ARS restates and incorporates its responses to the foregoing paragraphs as if fully stated herein.



42. In response to paragraph 42 of the Complaint, ARS is without knowledge or information sufficient to form a belief as to the truth of those allegations and, on that basis, generally denies the remaining allegations in that paragraph.

43. In response to paragraph 43 of the Complaint, ARS is without knowledge or information sufficient to form a belief as to the truth of those allegations and, on that basis, generally denies the remaining allegations in that paragraph.

44. In response to paragraph 44 of the Complaint, ARS is without knowledge or information sufficient to form a belief as to the truth of those allegations and, on that basis, generally denies the remaining allegations in that paragraph.

45. In response to paragraph 45 of the Complaint, ARS is without knowledge or information sufficient to form a belief as to the truth of those allegations and, on that basis, generally denies the remaining allegations in that paragraph.

46. In response to paragraph 46 of the Complaint, ARS denies each and every allegation as it relates to ARS. In response to the remaining allegations, ARS is without knowledge or information sufficient to form a belief as to the truth of those allegations and, on that basis, generally denies the remaining allegations in that paragraph.

47. In response to paragraph 47 of the Complaint, ARS denies each and every allegation as it relates to ARS. In response to the remaining allegations, ARS is without knowledge or information sufficient to form a belief as to the truth of those allegations and, on that basis, generally denies the remaining allegations in that paragraph.

48. In response to paragraph 48 of the Complaint, ARS denies each and every allegation as it relates to ARS. In response to the remaining allegations, ARS is without

knowledge or information sufficient to form a belief as to the truth of those allegations and, on that basis, generally denies the remaining allegations in that paragraph.

49. In response to paragraph 49 of the Complaint, ARS denies each and every allegation as it relates to ARS. In response to the remaining allegations, ARS is without knowledge or information sufficient to form a belief as to the truth of those allegations and, on that basis, generally denies the remaining allegations in that paragraph.

50. In response to paragraph 50 of the Complaint, ARS states that allegations contained therein are legal conclusions which are not subject to denial or admission. ARS denies each and every allegation as it relates to ARS and generally denies any allegation that it violated the FCRA or any other law. In response to the remaining allegations, ARS is without knowledge or information sufficient to form a belief as to the truth of those allegations and, on that basis, generally denies the remaining allegations in that paragraph.

51. In response to paragraph 51 of the Complaint, ARS states that allegations contained therein are legal conclusions which are not subject to denial or admission. ARS denies each and every allegation as it relates to ARS and generally denies any allegation that it violated the FCRA or any other law. In response to the remaining allegations, ARS is without knowledge or information sufficient to form a belief as to the truth of those allegations and, on that basis, generally denies the remaining allegations in that paragraph.

52. In response to paragraph 52 of the Complaint, ARS denies each and every allegation as it relates to ARS and generally denies any allegation that it violated the FCRA or any other law. In response to the remaining allegations, ARS is without knowledge or information sufficient to form a belief as to the truth of those allegations and, on that basis, generally denies the remaining allegations in that paragraph.

53. In response to paragraph 53 of the Complaint, ARS denies each and every allegation as it relates to ARS. In response to the remaining allegations, ARS is without knowledge or information sufficient to form a belief as to the truth of those allegations and, on that basis, generally denies the remaining allegations in that paragraph.

54. In response to paragraph 54 of the Complaint, ARS states that allegations contained therein are legal conclusions which are not subject to denial or admission. ARS denies each and every allegation as it relates to ARS and generally denies any allegation that it violated the FCRA or any other law. In response to the remaining allegations, ARS is without knowledge or information sufficient to form a belief as to the truth of those allegations and, on that basis, generally denies the remaining allegations in that paragraph.

55. In response to paragraph 55 of the Complaint, ARS denies each and every allegation as it relates to ARS. In response to the remaining allegations, ARS is without knowledge or information sufficient to form a belief as to the truth of those allegations and, on that basis, generally denies the remaining allegations in that paragraph.

**ARS's alleged FCRA violations**

56. In response to paragraph 56 of the Complaint, ARS restates and incorporates its responses to the foregoing paragraphs as if fully stated herein.

57. In response to paragraph 57 of the Complaint, ARS states that allegations contained therein are legal conclusions which are not subject to denial or admission. ARS denies each and every allegation as it relates to ARS and generally denies any allegation that it violated the FCRA or any other law. In response to the remaining allegations, ARS is without knowledge or information sufficient to form a belief as to the truth of those allegations and, on that basis, generally denies the remaining allegations in that paragraph.

58. In response to paragraph 58 of the Complaint, ARS denies each and every allegation as it relates to ARS. In response to the remaining allegations, ARS is without knowledge or information sufficient to form a belief as to the truth of those allegations and, on that basis, generally denies the remaining allegations in that paragraph.

59. In response to paragraph 59 of the Complaint, ARS denies each and every allegation as it relates to ARS. In response to the remaining allegations, ARS is without knowledge or information sufficient to form a belief as to the truth of those allegations and, on that basis, generally denies the remaining allegations in that paragraph.

### **Count II: Fair Debt Collection Act**

60. In response to paragraph 60 of the Complaint, ARS states that allegations contained therein are legal conclusions which are not subject to denial or admission. ARS denies each and every allegation as it relates to ARS and generally denies any allegation that it violated the FDCPA or any other law. In response to the remaining allegations, ARS is without knowledge or information sufficient to form a belief as to the truth of those allegations and, on that basis, generally denies the remaining allegations in that paragraph.

61. In response to paragraph 61 of the Complaint, ARS denies each and every allegation as it relates to ARS. In response to the remaining allegations, ARS is without knowledge or information sufficient to form a belief as to the truth of those allegations and, on that basis, generally denies the remaining allegations in that paragraph.

62. In response to paragraph 62 of the Complaint, ARS states that allegations contained therein are legal conclusions which are not subject to denial or admission. ARS denies each and every allegation as it relates to ARS and generally denies any allegation that it violated the FDCPA or any other law. In response to the remaining allegations, ARS is without

knowledge or information sufficient to form a belief as to the truth of those allegations and, on that basis, generally denies the remaining allegations in that paragraph.

63. In response to paragraph 63 of the Complaint, ARS states that allegations contained therein are legal conclusions which are not subject to denial or admission. ARS denies each and every allegation as it relates to ARS.

64. In response to paragraph 64 of the Complaint, ARS denies each and every allegation as it relates to ARS. ARS further states it is without knowledge or information sufficient to form a belief as to the truth of those allegations and, on that basis, generally denies the remaining allegations in that paragraph.

65. In response to paragraph 65 of the Complaint, ARS states that allegations contained therein are legal conclusions which are not subject to denial or admission. ARS denies each and every allegation as it relates to ARS and generally denies any allegation that it violated the FDCPA or any other law. In response to the remaining allegations, ARS is without knowledge or information sufficient to form a belief as to the truth of those allegations and, on that basis, generally denies the remaining allegations in that paragraph.

66. In response to paragraph 66 of the Complaint, ARS states that allegations contained therein are legal conclusions which are not subject to denial or admission. ARS denies each and every allegation as it relates to ARS and generally denies any allegation that it violated the FDCPA or any other law. In response to the remaining allegations, ARS is without knowledge or information sufficient to form a belief as to the truth of those allegations and, on that basis, generally denies the remaining allegations in that paragraph.

67. In response to paragraph 67 of the Complaint, ARS denies each and every allegation as it relates to ARS.

68. In response to paragraph 68 of the Complaint, ARS denies each and every allegation as it relates to ARS. In response to the remaining allegations, ARS is without knowledge or information sufficient to form a belief as to the truth of those allegations and, on that basis, generally denies the remaining allegations in that paragraph.

69. In response to paragraph 69 of the Complaint, ARS states that allegations contained therein are legal conclusions which are not subject to denial or admission. ARS denies each and every allegation as it relates to ARS and generally denies any allegation that it violated the FDCPA or any other law. In response to the remaining allegations, ARS is without knowledge or information sufficient to form a belief as to the truth of those allegations and, on that basis, generally denies the remaining allegations in that paragraph.

70. In response to paragraph 70 of the Complaint, ARS denies each and every allegation as it relates to ARS. In response to the remaining allegations, ARS is without knowledge or information sufficient to form a belief as to the truth of those allegations and, on that basis, generally denies the remaining allegations in that paragraph.

71. In response to paragraph 71 of the Complaint, ARS states that allegations contained therein are legal conclusions which are not subject to denial or admission. ARS denies each and every allegation as it relates to ARS and generally denies any allegation that it violated the FDCPA or any other law. In response to the remaining allegations, ARS is without knowledge or information sufficient to form a belief as to the truth of those allegations and, on that basis, generally denies the remaining allegations in that paragraph.

72. In response to paragraph 72 of the Complaint, ARS denies each and every allegation as it relates to ARS. In response to the remaining allegations, ARS is without

knowledge or information sufficient to form a belief as to the truth of those allegations and, on that basis, generally denies the remaining allegations in that paragraph.

73. In response to paragraph 73 of the Complaint, ARS denies each and every allegation as it relates to ARS. In response to the remaining allegations, ARS is without knowledge or information sufficient to form a belief as to the truth of those allegations and, on that basis, generally denies the remaining allegations in that paragraph.

74. In response to paragraph 74 of the Complaint, ARS states that allegations contained therein are legal conclusions which are not subject to denial or admission. ARS generally denies any allegation that it violated the FDCPA or any other law. In response to the remaining allegations, ARS is without knowledge or information sufficient to form a belief as to the truth of those allegations and, on that basis, generally denies the remaining allegations in that paragraph.

75. In response to paragraph 75 of the Complaint, ARS states that allegations contained therein are legal conclusions which are not subject to denial or admission. In response to the remaining allegations, ARS is without knowledge or information sufficient to form a belief as to the truth of those allegations and, on that basis, generally denies the remaining allegations in that paragraph.

#### **DEMAND FOR JURY TRIAL**

76. In response to paragraph 76 of the Complaint, ARS admits that Plaintiff has demanded a trial by jury.

#### **PRAYER FOR RELIEF**

ARS admits that Plaintiff seeks judgment and damages but denies that Plaintiff is entitled to judgment or damages against ARS.

### **AFFIRMATIVE DEFENSES**

In response to Plaintiff's Complaint, ARS asserts the following affirmative defenses.

1. ARS pleads that Plaintiff fails to set forth facts sufficient to state a claim upon which relief may be granted against ARS and further fails to state facts sufficient to entitle Plaintiff to any of the relief sought, or to any other relief whatsoever from ARS.

2. ARS pleads Plaintiff's claims are barred by the immunity offered under 15 U.S.C. § 1681h(e).

3. ARS pleads that Plaintiff's damages, to the extent they exist, are the results of acts and omissions of third persons over whom ARS has neither control nor responsibility.

4. ARS pleads that Plaintiff has caused its own alleged damages and/or any alleged damages incurred by Plaintiff was due to Plaintiff's or third parties' own negligence which equals or exceeds any alleged negligence or wrongdoing by ARS.

5. ARS pleads that Plaintiff's claims are barred by the applicable statute of limitations.

6. ARS pleads that if Plaintiff sustained any damages, there is an intervening, superseding cause leading to such alleged injuries and any action or omission taken by ARS was not a cause of said damages.

7. ARS pleads that Plaintiff's recovery is barred by the doctrines of unclean hands, waiver, estoppel and/or laches.

8. At all pertinent times, ARS complied with the Fair Debt Collection Practices Act 15 U.S.C. § 1692 et seq., Fair Credit Reporting Act, and any and all other applicable State and/or Federal laws.



9. Any violation of law, which is specifically denied, was not intentional and resulted from a bona fide error notwithstanding the maintenance of procedures reasonably adapted to avoid any such error. *See* 15 U.S.C. §1692k(c).

10. Any violation of law, which is specifically denied, resulted from a bona fide error that occurred notwithstanding the use of reasonable procedures adopted to avoid the error.

11. ARS pleads that Plaintiff lacks Article III standing to the extent Plaintiff is unable to show that Plaintiff incurred any concrete and particularized injury. Plaintiff has not suffered any alleged actual damages, and thus, Plaintiff lacks standing to assert the claims as alleged in Plaintiff's Complaint.

12. ARS pleads that it is entitled to an offset for any payment Plaintiff receives in connection with any claim asserted in this lawsuit.

13. ARS reserves the right to assert additional affirmative defenses as discovery warrants.

14. ARS pleads that Plaintiff has failed to mitigate damages.

15. ARS would show that the imposition of punitive damages in this case would be fundamentally unfair and would violate the Constitution of the United States in one or more of the following respects, to wit:

- a. Due Process requires proof of gross negligence and punitive damages by a standard greater than the "preponderance of the evidence" standard. Due process requires proof of such claims by at least a clear and convincing evidence standard of proof.
- b. The assessment of punitive damages, a remedy that is essentially criminal in nature, constitutes infliction of a criminal penalty without the safeguards guaranteed by the Fifth, Sixth, and Fourteenth Amendments to the Constitution of the United States and the Eighth Amendment to the Constitution of the United States.

**PRAYER**

WHEREFORE, ARS prays as follows that Plaintiff take nothing by virtue of Plaintiff's Third Amended Complaint and that this action be dismissed in its entirety with prejudice, that ARS be awarded attorney's fees and costs pursuant to 15 U.S.C. §1692(k)(a)(3) (2020), 15 U.S.C. §§1681n-o (2020), and Federal Rule of Civil Procedure 54(d), and for such other and further relief to which ARS may be entitled in law or in equity.

Respectfully submitted,

THOMPSON, COE, COUSINS & IRONS, L.L.P.

By: /s/ Jason R. Jobe

Jason R. Jobe

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**COUNSEL FOR HEALTHCARE REVENUE  
RECOVERY GROUP, LLC D/B/A ARS  
ACCOUNT RESOLUTION SERVICES**

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY THAT ON June 15, 2020, a copy of the foregoing document was served on the counsel of record via ECF in accordance with Federal Rules of Civil Procedure.

By: /s/ Benjamin L. Weible

Benjamin L. Weible